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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

FRANK WILLIAM CAVATAIO,

 Petitioner,

 v.

JERRY HOWELL, et al.,

 Respondents.

Case No. 2:19-cv-01325-GMN-NJK

ORDER

The court directed petitioner to do three things. First, petitioner needed either to pay the filing fee of \$5.00 or to file a complete application to proceed in forma pauperis. Second, petitioner needed to show cause why the court should not dismiss the action because he has not exhausted any of his grounds for relief in the state courts. Third, petitioner needed to file an amended petition to correct defects in his allegations. ECF No. 3.

Petitioner has filed an application to proceed in forma pauperis. ECF No. 7. However, the application is incomplete, because petitioner did not include a statement of his inmate account and a financial certificate signed by the correct prison official.

Petitioner has filed a copy of a motion to correct illegal sentence and a copy of a response to the opposition to the motion to correct illegal sentence, both of which he has filed in the state district court. ECF No. 6, 8. As petitioner himself notes, the state district court has not yet ruled on the motion, and thus he could not have appealed any denial of the motion. The court also has

1 searched again the on-line records of the Nevada Appellate Courts, and the court can find no
2 appeal under petitioner's name.¹ The federal petition remains completely unexhausted.

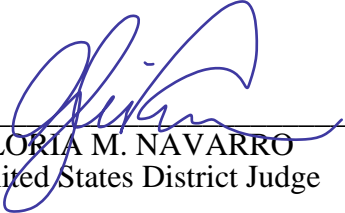
3 For these two reasons, the court dismisses the action. The dismissal will be without
4 prejudice.² However, the court makes no statement about the timeliness of any subsequently
5 commenced habeas corpus action. Reasonable jurists would not find the court's conclusions to be
6 debatable or wrong, and the court will not issue a certificate of appealability.

7 IT THEREFORE IS ORDERED that the application to proceed in forma pauperis (ECF
8 No. 7) is **DENIED**.

9 IT FURTHER IS ORDERED that this action is **DISMISSED** without prejudice. The
10 clerk of the court shall enter judgment accordingly and close this action.

11 IT FURTHER IS ORDERED that a certificate of appealability will not issue.

12 DATED: October 9, 2019

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GLORIA M. NAVARRO
United States District Judge

¹ <http://caseinfo.nvsupremecourt.us/public/publicActorSearch.do> (report generated October 9, 2019).

² Petitioner also has not filed an amended petition. If the court was not dismissing the action in its entirety, the court would need to dismiss grounds 2 and 3 of the initial petition.